

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Kyler H., a Minor, and)
LOJWANNA M., Individually and)
as Guardian and Next Friend of) 08 C 1125
Kyler H.,)
Plaintiffs,)
v.) Judge Amy St. Eve
BOARD OF EDUCATION OF THE)
CITY OF CHICAGO, DISTRICT 299)
Defendant.) Magistrate Judge Mason

DEFENDANT BOARD'S MOTION FOR SUMMARY JUDGMENT

Defendant Board of Education of the City of Chicago ("Board"), by its attorneys, hereby submits its motion for summary judgment pursuant to Rule 56.1(a)(3) of the Federal Rules of Civil Procedure, and states as follows:

INTRODUCTION

1. Kyler H. and her parent Lojwanna M. ("Plaintiffs") filed a complaint seeking attorneys' fees and costs incurred as a result of the due process hearing brought pursuant to the Individuals with Disabilities Education Act ("IDEA"), 20 U.S.C. §1400 *et seq.* Pursuant to §1415(i)(3)(D)(ii) of the IDEA, Plaintiffs are statutorily barred from receiving attorneys' fees for individualized education plan ("IEP") meetings held on July 30, 2007 and August 2, 2007, as these IEP meetings conducted prior to the Due Process hearing and thus were not held pursuant to an administrative proceeding or judicial action. Moreover, there is nothing in the record to suggest that these meetings

were conducted for mediation purposes. Subsequently, Plaintiffs' request for attorneys' fees for the July 20, 2007 and August 2, 2007 IEP meetings, as well as their request for fees for hours billed in relation to these IEP meetings, are not permitted under the IDEA and should be denied.

2. As set forth in Defendant's memorandum of law, filed under separate cover, there are no issues of material fact for a jury to resolve.

3. Defendant is entitled to summary judgment as plaintiff fails to establish an entitlement under the law to the fees claimed

Wherefore, defendant respectfully prays that this court grant summary judgment and for such further relief as this court deems just.

Respectfully submitted,

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